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14 Attorneys for Defendant
15 COUNTY OF SAN LUIS OBISPO

16 UNITED STATES DISTRICT COURT

17 CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

18 SAN LUIS OBISPO COASTKEEPER,
19 LOS PADRES FORESTWATCH,
20 CALIFORNIA COASTKEEPER
ALLIANCE, and THE ECOLOGICAL
21 RIGHTS FOUNDATION,

22 Plaintiffs,

23 vs.

24 COUNTY OF SAN LUIS OBISPO,

25 Defendant.

Case No: 2:24-cv-06854 SPG (ASx)

DISCOVERY MATTER

**DECLARATION OF KATHERINE
L. FELTON IN SUPPORT OF
COUNTY OF SAN LUIS OBISPO'S
OPPOSITION TO PLAINTIFFS' EX
PARTE APPLICATION TO STAY
OR IN THE ALTERNATIVE
QUASH DEPOSITION
SUBPOENAS FOR BENJAMIN
PITTERLE, GORDON HENSLEY,
AND CYNTHIA REPLOGLE**

26 Magistrate Judge: Hon. Alka Sagar

27 Case No. 2:24-cv-06854 SPG (ASx)

28 DECLARATION OF KATHERINE L. FELTON ISO COUNTY'S OPPOSITION TO PLAINTIFFS' EX PARTE
APPLICATION TO STAY OR QUASH DEPOSITION SUBPOENAS

63531596

1 I, Katherine L. Felton, declare as follows:

2 1. I am a Partner at the law firm of Nossaman LLP ("Nossaman"), counsel
3 of record for Defendant County of San Luis Obispo ("County"). I am duly licensed
4 to practice law in the states of Washington and Alaska, and I am admitted *pro hac
5 vice* before this Court in the instant litigation. Unless otherwise stated on
6 information and belief, I have personal knowledge of the facts set forth herein. If
7 called upon to do so, I could and would competently testify to the matters set forth
8 in this declaration.

9 2. I make this Declaration in support of the County's Opposition to
10 Plaintiffs' Ex Parte Application to Stay or In the Alternative Quash Deposition
11 Subpoenas for Benjamin Pitterle, Gordon Hensley, and Cynthia Replogle (the "Ex
12 Parte Application").

13 3. On the morning of Friday, May 16, 2025, while driving to the office, I
14 became aware of an ECF notification that had been delivered to my email inbox at
15 12:21 a.m. The ECF notification pertained to Plaintiffs' filing of an Ex Parte
16 Application which according to the ECF notification occurred at "0:20 AM PDT"
17 on May 16, 2025. As a result of this filing, I had to immediately drop everything,
18 including other work on this litigation and work for other clients on other matters,
19 to address Plaintiffs' literal midnight filing of the Ex Parte Application. Responding
20 to Plaintiffs' Ex Parte Application consumed all of my work time on Friday and a
21 substantial portion of the weekend. Paul Weiland and Brian Ferrasci-O'Malley were
22 also required to stop work on other matters and devote a substantial portion of their
23 workday on Friday to preparing the County's Opposition to Plaintiffs' Ex Parte
24 Application. Paul Weiland also devoted substantial time over the weekend to
25 preparing the County's response, as did others, including a legal secretary who had
26 to work on Sunday to assist in preparing and filing this Opposition.
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1 4. Attached as Exhibit 1 is a true and correct copy of excerpts from
2 Plaintiff's Initial Disclosures to the County of San Luis Obispo served on October
3 18, 2024.

4 5. Attached as Exhibit 2 is a true and correct copy of the April 21, 2025
5 email from the County's counsel to plaintiffs' counsel requesting that plaintiffs'
6 counsel "identify dates between May 14 and May 30 that each of Plaintiffs' four
7 standing witnesses are available for purposes of us taking their deposition."

8 6. Attached as Exhibit 3 is a true and correct copy of the April 22, 2025
9 email from plaintiffs' counsel in which plaintiffs' counsel stated "Plaintiffs
10 anticipate that the parties will schedule these [30(b)(6)] depositions, which have
11 been pending for some time, prior to discussing the scheduling, format, and number
12 of depositions of Plaintiffs' standing witnesses (noted in Mr. Ferrasci-O'Malley's
13 email yesterday)."

14 7. On April 24, 2025, the County tried again to set the standing witness
15 depositions. Attached as Exhibit 4 is a true and correct copy of the April 24, 2024
16 email to plaintiffs' counsel requesting that they "[p]lease provide the dates between
17 May 14 and May 30 for the standing witness depositions." Counsel pointed out to
18 Plaintiffs that the County had provided the information that Plaintiffs' counsel
19 sought regarding the County's 30(b)(6) depositions.

20 8. Attached as Exhibit 5 is a true and correct copy of the May 2, 2025
21 letter from plaintiffs' counsel in which plaintiffs' counsel continued to refuse to
22 provide dates for the standing witness depositions.

23 9. The parties conducted a meet and confer on May 5, 2025. During that
24 meeting, the County's counsel requested, and Plaintiffs' counsel agreed, to waive
25 formal service of the standing witness deposition subpoenas, to accept service of
26 deposition subpoenas on their behalf, and to waive the witnesses' deposition fees
27 and mileage. Plaintiffs' counsel memorialized their commitment in an email to the
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1 County's counsel the following day on May 6, 2025, a true and correct copy of which
2 is attached as Exhibit 6.

3 10. The County promptly issued subpoenas for the standing witness
4 depositions the same day. Attached as Exhibit 7 is a true and correct copy of the
5 May 6, 2025 email from the County's counsel to Plaintiffs' counsel transmitting the
6 deposition subpoenas for Sean Bothwell, Gordon Hensley, Cynthia Replogle, and
7 Benjamin Pitterle.

8 11. Attached as Exhibit 8 is a true and correct copy of the May 8, 2025
9 email from Plaintiffs' counsel objecting to the subpoenas.

10 12. Attached as Exhibit 9 is a true and correct copy of the May 9, 2025
11 email from the County's counsel to Plaintiffs' counsel providing dates for a further
12 meet and confer and refuting Plaintiffs' position that the County is required to make
13 a showing before depositing Plaintiffs' standing witnesses.

14 13. Attached as Exhibit 10 is a true and correct copy of a May 12, 2025
15 email from Plaintiffs' counsel continuing to object to the deposition dates without
16 providing alternatives.

17 14. Attached as Exhibit 11 is a true and correct copy of the County's May
18, 2025 response.

19 15. The parties conducted a further meet and confer on May 13, 2025.
20 During that meet and confer Plaintiffs refused to withdraw any of their standing
21 witnesses, or to stipulate that they would not rely on any of the standing witnesses
22 going forward.

23 16. Attached as Exhibit 12 is a true and correct copy of Plaintiffs' counsel's
24 May 15, 2025 email to the County's counsel threatening to proceed with an *ex parte*
25 application if the County would not agree to Plaintiffs' conditions. The County
26 refused, and after midnight on May 16, 2025, Plaintiffs filed their application.

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1 I declare under penalty of perjury under the laws of the United States that
2 the foregoing is true and correct.

3 Executed on this 18th day of May 2025, at Arcata, California.

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Katherine L. Felton